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doi DOI: 10.46924/jihk.v7i2.414

Assessing Local Government Responsibility in Protecting Traditional Fishermen through Fisheries Insurance

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How to cite

Bimantara, Gesa., Labibah, Hanin
Alya', & Tina, Neli Agus. 2026.
Assessing Local Government
Responsibility in Protecting
Traditional Fishermen through
Fisheries Insurance. *Jurnal Ilmu
Hukum Kyadiren* 7(2), 1493-1503.
<https://doi.org/10.46924/jihk.v7i2.414>

Original Article

Abstract

Traditional fishermen constitute a category of workers exposed to a high level of occupational safety risk, yet they have not received adequate and effective legal protection. One of the policy instruments developed by the state to safeguard fishermen is the fisheries insurance scheme. This study examines the responsibility of local governments in providing legal protection for traditional fishermen through the implementation of fisheries insurance, with a particular focus on Tuban Regency. The research employs an empirical legal method using a socio-legal approach. Data were collected through interviews with local government officials and traditional fishermen, complemented by an analysis of relevant laws and regulations and a review of the existing literature. The findings indicate that although fisheries insurance is supported by a sufficient legal framework, it has not yet functioned as substantive legal protection in practice. Its implementation remains largely administrative, while legal education and assistance with insurance claims are inadequately provided, resulting in legal protection that falls short of delivering legal certainty, tangible benefits, and a sense of security for fishermen.

Keywords: *Traditional Fishermen, Fisheries Insurance, Local Government Responsibility, Legal Protection.*

Abstrak

Nelayan tradisional merupakan kelompok pekerja dengan tingkat risiko keselamatan kerja yang tinggi, namun belum sepenuhnya memperoleh perlindungan hukum yang efektif. Salah satu instrumen kebijakan yang dikembangkan negara untuk melindungi nelayan adalah asuransi perikanan. Penelitian ini bertujuan mengkaji tanggung jawab pemerintah daerah dalam memberikan perlindungan hukum bagi nelayan tradisional melalui skema asuransi perikanan, dengan fokus pada implementasinya di Kabupaten Tuban. Metode penelitian yang digunakan adalah hukum empiris dengan pendekatan yuridis sosiologis. Data diperoleh melalui wawancara dengan aparatur pemerintah daerah dan nelayan tradisional, serta studi terhadap peraturan perundang-undangan dan literatur terkait. Hasil penelitian menunjukkan bahwa meskipun secara normatif asuransi perikanan memiliki dasar hukum yang memadai, dalam praktiknya belum berfungsi sebagai perlindungan hukum substantif. Pelaksanaannya cenderung bersifat administratif, sementara edukasi hukum dan pendampingan klaim belum optimal, sehingga perlindungan nelayan belum sepenuhnya memberikan kepastian, kemanfaatan, dan rasa aman.

Kata kunci: *Nelayan Tradisional, Asuransi Perikanan, Tanggung Jawab Pemerintah Daerah, Perlindungan Hukum.*

1. INTRODUCTION

Fishing activities undertaken by traditional fishermen constitute a form of work characterized by a high level of occupational risk, yet they have not been adequately supported by comprehensive legal protection and social security systems.¹ In their daily work, traditional fishermen are exposed to unpredictable weather conditions, limited access to safety equipment, and working environments that fall significantly below the occupational safety standards applied in formal sectors. As a result, traditional fishermen face a heightened risk of workplace accidents, which may lead to injury, permanent disability, or loss of life. These risks extend beyond individual fishermen and generate broader social and economic consequences for their families and coastal communities whose livelihoods depend on fishing activities.²

The vulnerability of traditional fishermen is further intensified by the socioeconomic conditions inherent in this occupation. The majority of traditional fishermen belong to low-income groups, possess limited educational backgrounds, and have restricted access to formal social protection mechanisms. Their strong reliance on daily fishing yields places them in an economically precarious position, such that occupational accidents at sea often produce immediate and severe impacts on household livelihoods.³ In many instances, workplace accidents not only result in the loss of primary income sources but also exacerbate poverty among fishing families due to the absence of effective protection mechanisms.

Within this context, the protection of traditional fishermen should be understood as an integral component of the state's responsibility to safeguard occupational safety and promote social welfare.⁴ Such protection must be embedded within a legal framework that guarantees fishermen's rights to safety, business continuity, and social security. Through public policy, the state is expected to establish protection instruments capable of transferring occupational risks in a fair and sustainable manner, ensuring that the inherent risks of fishing activities are not borne solely by fishermen and their families.⁵

One policy instrument developed to address these challenges is fisheries insurance. Fisheries insurance is designed as a risk-transfer mechanism that provides financial security for fishermen who experience occupational accidents at sea. Conceptually, this scheme

¹ Dian Prasetyawati et al., "Analisis Risiko Keselamatan Kerja Pada Kapal Nelayan Tradisional: PPD I Brondong, Kabupten Lamongan," *Mine-Tech: Journal of Manufacturing in Industrial Engineering & Technology* 3, no. 1 (2024): 41–52, <https://doi.org/10.30651/mine-tech.v3i1.23153>.

² Agung Wibowo et al., "Pemberdayaan Nelayan Tradisional dalam Menghadapi Perubahan Sosial di Kabupaten Pacitan," *Jurnal Penyuluhan* 21, no. 1 (2025): 102–16, <https://doi.org/10.25015/21202557462>.

³ Candra Adi Intyas, Edi Susilo, dan Erlinda Indrayani, *Modal Sosial dan Kemiskinan Nelayan* (Malang: UB Press, 2022), hal. 8.

⁴ Muhamad Nurdin Yusuf, *Model Perlindungan dan Pemberdayaan Nelayan Kecil* (Tasikmalaya: Langgam Pustaka, 2023), hal. 22.

⁵ Hikmah dan Zahri Nasution, "Upaya Perlindungan Nelayan Terhadap Keberlanjutan Usaha Perikanan Tangkap," *Jurnal Kebijakan Sosial Ekonomi Kelautan dan Perikanan* 7, no. 2 (2017): 127–42, <https://doi.org/http://dx.doi.org/10.15578/jksekp.v7i2.6464>.

embodies both preventive and remedial dimensions of legal protection, as it seeks to mitigate the economic consequences of workplace accidents while also offering a recovery mechanism when such risks materialize. Accordingly, fisheries insurance is expected to enhance fishermen's sense of security in their work and reinforce their position as legal subjects entitled to state protection.⁶

The incorporation of fisheries insurance into public policy frameworks does not, in itself, guarantee effective legal protection for traditional fishers. Previous studies indicate that the implementation of this policy continues to face a range of challenges, encompassing not only administrative and institutional constraints but also social and cultural dynamics within fishing communities. These implementation barriers arise both from limitations in local government capacity and from the socioeconomic conditions of fishing communities as policy beneficiaries.⁷ Persistent issues include inadequate local government capacity in data management, outreach activities, and claim assistance. Simultaneously, limited understanding of insurance mechanisms among fishers, negative perceptions of claim procedures, and low levels of trust in government protection programs further undermine policy effectiveness.⁸ This situation underscores the ongoing discrepancy between the policy's normative objectives and the protective practices experienced in the field.

From the perspective of legal effectiveness theory, a policy can function optimally only when legal norms are supported by robust institutional structures and a compatible legal culture within society. Where legal norms exist without consistent, accessible, and responsive implementation, the law risks losing its practical effectiveness. This condition is commonly conceptualized as the gap between law in text (law on the books) and law in practice (law in action).⁹ In the context of fisheries insurance, this gap is evident in the divergence between the protection formally guaranteed by regulations and the lived experiences of fishers when seeking insurance benefits following work-related accidents.

Within this context, regional governments occupy a strategic position in narrowing this gap. As governmental actors whose authority directly affects fishing communities, regional governments are not merely executors of central policies but also central agents in ensuring the effective realization of fisher protection measures. Their responsibilities extend across multiple dimensions, including the registration of insurance participants, dissemination of policy information, and facilitation of insurance claims in cases of

⁶ Theta Murty, "Pelaksanaan Perjanjian Asuransi Nelayan," *Jurnal Ilmiah Ilmu Hukum Simbur Cahaya* 27, no. 2 (2020): 158–76, <https://doi.org/10.28946/sc.v27i2.1043>.

⁷ Giana Nurallyanda, "Analisis Sosial Ekonomi Asuransi Kecelakaan Kerja Nelaya Tradisional di Kabupaten Pangandaran, Jawa Barat," *Jurnal Perikanan dan Kelautan* 12, no. 1 (2022): 66–77, <https://dx.doi.org/10.33512/jpk.v12i1.14745>.

⁸ Linda Permatasari, Pudji Suharso, dan Wiwin Hartanto, "Implementasi Program Bantuan Premi Asuransi Nelayan (BPAN) Pada Masyarakat Pesisir Pantai Puger Kabupaten Jember," *Jurnal Pendidikan Ekonomi: Jurnal Ilmu Pendidikan, Ilmu Ekonomi, dan Ilmu Sosial* 14, no. 1 (2020): 225–31, <https://doi.org/10.19184/jpe.v14i1.12056>.

⁹ Tanti Kirana Utami et al., "Pengaruh Teori Perundang-Undangan Terhadap Dinamika Norma Hukum dalam Sistem Hukum Indonesia," *Jurnal hukum Ius Publicum* 5, no. 2 (2024): 264–93, <https://doi.org/10.55551/jip.v5i2.199>.

occupational accidents.¹⁰ Viewed through the lens of government responsibility theory, these obligations are not discretionary but arise from the state's mandate to protect citizens from the social risks inherent in particular economic activities.

Tuban Regency, a coastal region in East Java Province, is inhabited by a substantial population of traditional fishers and has introduced a fisheries insurance program. From a normative perspective, the establishment of this program reflects local government efforts to implement policies aimed at protecting fishers. However, the practical implementation of fisheries insurance indicates that the intended protective objectives have not been fully achieved. A number of fishers remain uninsured, information concerning participants' rights and obligations is limited, and claim procedures are largely administrative in nature, which may impede the realization of fishers' rights to legal protection.

These conditions bring the issue of local government responsibility into sharper focus and underscore the need for in-depth analysis, particularly with respect to the effectiveness of protecting traditional fishers through fisheries insurance. Local governments possess both the authority and institutional capacity to ensure that fisheries protection policies extend beyond regulatory formulation and are effectively realized for their intended beneficiaries. When this responsibility is not exercised optimally, fisheries insurance risks functioning merely as an administrative instrument without producing meaningful protective outcomes.

Against this backdrop, this study examines local government responsibility in protecting traditional fishers through fisheries insurance, with a specific focus on policy implementation in Tuban Regency. The study analyzes how fisheries insurance policies are applied at the regional level, evaluates the role of local governments in ensuring access to and effectiveness of legal protection for traditional fishers, and identifies factors influencing policy success or failure. Employing an empirical legal approach, the research links the normative framework governing fisher protection with theories of legal protection and government responsibility, as well as the social realities encountered by traditional fishers in their daily activities.

From an academic perspective, this study contributes to scholarship in administrative and welfare law, particularly concerning the role of local governments in providing social protection for vulnerable groups. From a practical standpoint, the findings are expected to inform local governments in evaluating and improving the implementation of fisheries insurance as a protective instrument. In this way, the study advances both academic discourse and policy development aimed at strengthening legal protection and promoting the sustainable welfare of traditional fishers.

2. RESEARCH METHODOLOGY

¹⁰ Nurkaidah, *Implementasi Kebijakan Publik: Konsep Pengentasan Kemiskinan Nelayan Tradisional di Indonesia*, ed. oleh A. Burchanuddin (Bandung: Eksismedia Grafisindo (Eksisgraf), 2022), hal. 16.

This study adopts an empirical legal research design employing a socio-legal approach to comprehensively examine the implementation of local government responsibilities in providing legal protection for traditional fishermen through a fisheries insurance program. This approach is used to conceptualize law not merely as a body of written norms, but as a living system manifested in the social realities of fishing communities. The data consist of both primary and secondary sources. Primary data were collected through in-depth interviews with local government officials responsible for maritime and fisheries affairs and with traditional fishermen as beneficiaries of the fisheries insurance program. Secondary data include relevant statutes and regulations, regional policy instruments, program documentation, and scholarly literature on legal protection and fishermen's welfare. The research was conducted in Tuban Regency, which was selected on the basis that it has implemented a fisheries insurance program for traditional fishermen, thereby allowing for a concrete empirical assessment of its practical operation. Data analysis was carried out qualitatively by integrating empirical findings with the applicable legal framework and theories of legal protection in order to evaluate the effectiveness, constraints, and legal implications of the implementation of local government responsibilities in safeguarding traditional fishermen.

3. RESULT AND DISCUSSION

3.1. Legal Protection of Traditional Fishers through the Implementation of Fisheries Insurance

Based on field observations, the protection of traditional fishers through fisheries insurance in Tuban Regency has been formally implemented; however, the effectiveness of the resulting legal protection remains limited. The fisheries insurance program has primarily operated through mechanisms of data collection and participant registration, serving as an administrative basis for protection in cases of work-related accidents. Nevertheless, the protection generated by this scheme has not yet functioned as substantive legal protection for fishers as legal subjects.

From a normative standpoint, Law No. 7 of 2016, Regulation of the Minister of Maritime Affairs and Fisheries No. 3 of 2017, and Tuban Regency Regulation No. 8 of 2021 establish a clear legal framework concerning the government's obligation to provide protection against business risks and occupational safety hazards faced by fishers through fisheries insurance. Despite the presence of a relatively comprehensive regulatory framework, its implementation has not fully translated into effective legal protection in practice. Regulations tend to function primarily as an administrative foundation for program execution, without being accompanied by mechanisms that ensure the actual realization of fishers' rights.

Viewed from a legal protection perspective, this situation indicates that the existing protection remains largely formal in nature. The presence of regulations and procedures has not been sufficiently supported by legal mechanisms capable of delivering certainty, utility, and a sense of security to fishers as the intended beneficiaries.¹¹ Legal protection through fisheries insurance cannot be understood merely as the registration of fishers as participants; it becomes effective only when fishers understand their rights, can reasonably access claim mechanisms, and receive insurance benefits when occupational risks materialize.

Empirical findings further reveal that traditional fishers' understanding of fisheries insurance remains limited, particularly with regard to claim procedures and the scope of coverage. This limited understanding contributes to the low utilization of insurance benefits following work-related accidents. In several cases, fishers encounter difficulties in the claims process due to complex administrative requirements and insufficient assistance, resulting in the underutilization of available legal protection.¹²

These conditions suggest that the preventive function of fisheries insurance has not been optimally realized. Preventive protection should be reflected through adequate outreach, enhanced legal awareness among fishers, and accessible information regarding participants' rights and obligations. The weak implementation of these elements has shaped fishers' perceptions of fisheries insurance, which is often regarded not as an integral component of professional legal protection, but rather as a government assistance program contingent upon policy discretion.

At the same time, the remedial dimension of legal protection through the insurance claims mechanism has not operated effectively. The predominantly administrative character of the claims procedure, which fails to accommodate the practical conditions of traditional fishers, has hindered the recovery process following occupational accidents. As a result, legal protection has not fully functioned as a mechanism capable of facilitating access and delivering substantive justice for fishers as a vulnerable group. Although fisheries insurance was normatively designed as a protective instrument for fishers, its implementation in Tuban Regency indicates that such protection has not been fully realized in practice, whether in terms of accessibility, service responsiveness, or alignment with fishers' actual needs.

These findings are consistent with earlier studies indicating that fisheries insurance frequently encounters implementation challenges, particularly regarding fishers' understanding of the scheme and the effectiveness of claim mechanisms. Rather than disputing these conclusions, this study extends the analysis by situating these challenges

¹¹ Rina Yulianti, *Perlindungan Hukum Bagi Hak Masyarakat Atas Sumber Daya Pesisir* (Surabaya: Scopindo Media Pustaka, 2022), hal. 69.

¹² Nur Aisyah, Muhammad Syukri Albani Nasution, dan Ahmad Muhaisin B Syarbaini Tanjung, "Analisis Partisipasi Program Asuransi Nelayan Mandiri Terpercaya di Kota Sibolga," *Jurnal Lentera Bisnis* 13, no. 3 (2024): 1686–98, <https://doi.org/10.34127/jrlab.v13i3.1213>.

within the framework of legal protection. From this perspective, the core issue lies not in the absence of regulatory provisions, but in the failure of legal protection to operate substantively in practice.

Ultimately, the implementation of fisheries insurance in Tuban Regency demonstrates that protection for fishers remains confined to procedural compliance. Legal protection has yet to function as a mechanism capable of providing certainty and a sense of security when fishers are exposed to occupational risks. This condition underscores that the mere existence of regulations and insurance participation is insufficient to ensure effective protection, so long as such protection is not clearly reflected in fishers' lived legal experiences.

3.2. Regional Government Responsibilities in the Implementation of Fisheries Insurance for Traditional Fishers

Within the regulatory framework governing fisher protection, local government responsibility in the implementation of fisheries insurance extends beyond the mere execution of administrative programs and encompasses a range of procedural and substantive obligations that must be carried out on an ongoing basis. Normatively, Law No. 7 of 2016 and its implementing regulations designate local governments as central actors in ensuring that fisheries insurance operates as an effective instrument of legal protection for traditional fishers.¹³ Accordingly, an assessment of local government responsibility requires a comparison between prescribed procedures and actual practices in the field.

From a procedural standpoint, the implementation of fisheries insurance by local governments comprises at least four key stages.¹⁴ The first involves the collection and verification of fisher data to ensure that eligible fishers are accurately and continuously registered. The second stage consists of legal outreach and education, aimed at providing fishers with sufficient information regarding their rights, obligations, and the operational mechanisms of fisheries insurance. The third stage concerns facilitation and assistance in participation, including support in registration and administrative processes. The fourth stage entails claim assistance and the recovery of rights, ensuring that fishers who experience work-related accidents are able to access insurance benefits in a timely and equitable manner. These stages constitute an integrated legal protection process and cannot be treated in isolation.

Empirical findings indicate that the local government of Tuban Regency has generally implemented the first stage and part of the third stage, namely data collection and

¹³ Rusdianto Samawa, *Hitam Putih Negara Maritim Esai-Esai Kritis Kesejahteraan Nelayan*, ed. oleh Adityo Nugroho dan Rahma Farida (Yogyakarta: Pandiva Buku, 2023), hal. 52.

¹⁴ Ira Dwi Hastuti dan Mujahiddin, "Implementasi Kebijakan Penyelenggaraan Kartu Asuransi Nelayan di Dinas Pertanian dan Perikanan Kota Medan," *Keskap: Jurnal Kesejahteraan Sosial, Komunikasi, dan Administrasi Publik* 1, no. 3 (2022): 224–32, <https://doi.org/10.30596/keskap.v1i3.14180.g8895>.

facilitation of insurance participation. Fishers are registered as insurance participants through established administrative procedures. However, the stages of outreach and claim assistance have not been carried out optimally. Policy dissemination remains limited and discontinuous, with a stronger emphasis on registration procedures than on enhancing fishers' understanding of their rights and the legal protection mechanisms available to them.

This limited outreach has directly contributed to fishers' low level of understanding of fisheries insurance. Research findings reveal that some fishers lack clear knowledge regarding the types of risks covered, claim procedures, and the role of local government in the recovery process following work-related accidents. In this regard, local governments have not fully discharged their educational function as part of preventive legal protection. From a legal protection perspective, prevention of loss is achieved not only through regulatory provisions but also through the enhancement of legal awareness among protected groups.

At the stage of claim assistance, the divergence between ideal procedures and actual practice becomes more pronounced. Normatively, local governments are expected to play an active role in assisting fishers with claim submissions, ensuring the completeness of required documentation, and facilitating communication between fishers and insurance providers. However, empirical evidence indicates that such assistance has not yet been institutionalized. In several instances, fishers are required to manage claims independently despite limited knowledge and resources, leading to delays in claim processing and, in many cases, the failure to obtain insurance benefits.

Policy implementation in practice indicates that local governments tend to interpret their responsibilities primarily within the scope of program execution. Although administrative components have been carried out, guarantees for the fulfillment of fishers' rights as subjects of legal protection remain insufficient. In a welfare-oriented legal state, however, governmental responsibility is not measured solely by procedural compliance but by the extent to which citizens experience tangible protective outcomes.

When compared with earlier studies, these findings reinforce the argument that the principal weakness in the protection of fishers does not lie in policy formulation, but rather in procedural execution. While previous research has emphasized the importance of local government involvement in fisher protection, this study demonstrates that failures in legal protection arise when prescribed procedures are not implemented in their entirety. These findings contribute to a clearer understanding of procedural inconsistencies and their implications for the ineffectiveness of fisheries insurance as a protective mechanism.

A comparison between the ideal procedures for protecting fishers through fisheries insurance and their practical application in Tuban Regency reveals that the core problem does not stem from the absence of regulations or local government authority. Instead, it arises from the incomplete implementation of legal protection procedures. Local

governments have carried out certain administrative steps, particularly those related to data collection and participation facilitation, but have not fully implemented legal outreach and claims assistance, which constitute the foundation of substantive legal protection for traditional fishers.¹⁵

The failure to implement comprehensive protection procedures directly affects the inadequate fulfillment of fishers' rights when occupational risks materialize. In practice, fisheries insurance has yet to function as an effective mechanism of legal protection and continues to operate largely as an administrative program. This condition suggests that local government responsibility in implementation has not fully adhered to the principles of legal protection that ensure certainty, utility, and substantive justice for fishers.¹⁶

Inconsistent application of protection procedures especially in legal education and claims assistance has prevented fisheries insurance from functioning beyond formal policy requirements. Consequently, the restoration of fishers' rights and their sense of security has not been fully achieved. This underscores that the effectiveness of fisher protection depends on the execution of local government responsibilities, rather than merely on the existence of policies and levels of participation.

4. CONCLUSION

Based on the findings and analysis, this study concludes that the protection of traditional fishers through fisheries insurance in Tuban Regency is supported by an adequate legal framework, yet it has not operated as effective legal protection in practice. Fisheries insurance is predominantly implemented as an administrative arrangement emphasizing procedural compliance, such as data registration and participant enrollment, while the substantive dimensions of protection—namely legal certainty, practical benefits, and a sense of security for fishers—have not been fully realized. This condition reflects a disconnect between regulatory provisions and their practical execution, whereby the legal protection envisaged in the regulatory framework has not been consistently experienced by fishers when occupational risks arise.

The study further indicates that the core challenge does not stem from the absence of regulations or policy instruments, but rather from the incomplete and inconsistent application of protection procedures, particularly with respect to legal education and claims assistance. Limited understanding of insurance mechanisms among fishers, combined with insufficient support during the claims process, has resulted in legal protection being contingent upon individual capacity and initiative. In this context, local governments have

¹⁵ Paulus Adrianus K. L. Ratumakin dan Hendrikus L. Kaha, "Pengakuan Formal dan Pemenuhan Hak Nelayan," *Jurnal Administrasi Publik, Unika Widya Mandira-Kupang* 1, no. 1 (2020): 43–54, <https://doi.org/10.30822/jap.v1i1.425>.

¹⁶ Sulaiman et al., *Perlindungan Hukum Di Indonesia*, ed. oleh Aas Masruroh (Bandung: Penerbit Widina Media Utama, 2025), hal. 179.

not fully assumed their role as guarantors of legal protection, but have instead tended to confine their responsibilities to the administration of programs.

In light of these findings, the study underscores the need for local governments to move beyond formal procedural implementation and to strengthen substantive legal protection. Such efforts should include continuous legal outreach and education for fishers, proactive assistance throughout the insurance claims process, and the simplification of administrative procedures in accordance with the social realities of traditional fishing communities. Through this approach, fisheries insurance may be repositioned not merely as a form of governmental assistance, but as an integral component of the legal protection framework inherent to the fishing profession.

The effectiveness of fisheries insurance cannot be assessed solely by the existence of regulatory instruments or levels of participation. Rather, it must be evaluated on the basis of its practical operation and its capacity to provide genuine security for fishers when occupational risks occur. This study affirms that the success of fisheries protection is closely linked to the ability of local governments to consistently fulfill their legal protection responsibilities and to respond to the actual needs of traditional fishing communities.

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